

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC 75-1050

Mr. James F. C. Hyde
Acting Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

16 MAY 1975

Dear Mr. Hyde:

Enclosed is a proposed report to Chairman Henderson, House Committee on Post Office and Civil Service, in response to requests for our recommendations on the legislation of H.R. 1106, a bill which would prohibit the Director of Central Intelligence from participating in partisan politics under penalty of ten years imprisonment and \$10,000 fine.

Advice is requested as to whether there is any objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

|S|

George L. Cary
Legislative Counsel

Enclosure

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Honorable David N. Henderson, Chairman
Committee on Post Office and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request for comments on H. R. 1106, a bill which would prohibit the Director of Central Intelligence from participating in partisan politics under penalty of ten years imprisonment and \$10,000 fine.

The Office of the Director of Central Intelligence was established by the National Security Act of 1947. As prescribed by section 102 of that Act, the duties, powers, and responsibilities of the Director of Central Intelligence are limited exclusively to foreign intelligence matters. As the President's principal foreign intelligence officer, the Director is responsible for coordinating the foreign intelligence process, which involves the collection and analysis of raw information about foreign developments; the development of reasoned and unbiased judgments about its meaning and significance; and the presentation of these findings to policy-makers.

Participation in domestic partisan politics, as those terms are generally understood, is clearly outside the scope of this foreign intelligence mission and would be incompatible with its disinterested pursuit. In my view, therefore, the broad prohibition of H. R. 1106 is not necessary because there are already adequate safeguards against a Director undermining the integrity of the intelligence process by participating in partisan politics. These safeguards include the screening process provided by Senate confirmation; the ongoing oversight of the National Security Council, the President's Foreign Intelligence Advisory Board, and six congressional committees; the existing proscriptions in 5 U.S.C. 7324 (a)(1) on the use of official authority or influence to interfere with or affect the result of domestic elections; and the high degree of professionalism which exists within the intelligence community.



I would like to express some further reservations concerning the language used in H. R. 1106. The words "partisan politics" are not defined in the bill itself or elsewhere in the U. S. Code and are apparently not limited to domestic partisan politics. Therefore, this language could be construed very broadly to embrace activities properly undertaken overseas pursuant to section 102(d)(5) of the National Security Act of 1947. Moreover, while providing intelligence assessments to policy-makers is not a political activity, it is closely associated with the formulation of national policy. The language of H. R. 1106 could be used to challenge as "partisan" a Director's motives in presenting a particular intelligence assessment tending to support the arguments of one side of a policy debate in which partisan lines have been drawn.

I am also concerned that the broad language of the bill could preclude a Director from exercising his constitutional rights as a citizen. For example, merely voting or expressing personal views on social problems could be construed as participation in partisan politics. Other enactments in this area have been less sweeping and more explicit as to just what kinds of activities are proscribed. The Hatch Act, for example, prohibits certain individuals from taking "an active part in political management or in political campaigns." I believe that this kind of specificity is appropriate where limitations are being placed on a citizen's political life, especially where such severe penalties are prescribed. Therefore, I cannot recommend favorable consideration of H. R. 1106.

I would like to assure you, Mr. Chairman of my view that the Director of Central Intelligence certainly should not be engaged in domestic partisan politics. For this reason, after my appointment I withdrew my own voter registration as a member of one party and consequently do not participate in primary elections. This stems from my belief that our intelligence service is one which serves the nation as a whole, and abstains from policy or partisan matters.

The Office of Management and Budget advises there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director

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